

Law Offices of Tracy P.
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Trademark
Supplemental
Register



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Technology Protection

Patent Procurement

Trademark Registration

Copyright Registration

Trade Secret Protection

Licensing and Technology Transfer

Manufacturing Agreements



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The Supplemental Register

Type of Marks Registered

Customarily, these are potential marks capable of distinguishing applicant's goods or services, but which are not inherently distinctive and have not yet acquired the necessary secondary meaning.

Right to Use ®

Registration does grant the applicant the right to use this symbol to indicate registration and to bar any confusingly similar mark.

Registration to Enable Foreign Registration

The Supplemental Register allows a U.S. applicant to receive a domestic registration for a mark not yet registrable on the Principal Register as an aid in obtaining a foreign registration of the mark.

Scope of Protection

Registration on the Supplemental Register grants limited federal protection provided the mark is not generic and is in use in commerce.

Unlike the Principal Register, a registration on the Supplemental Register is not entitled to the advantages of certain sections of The Lanham Act. This means that a plaintiff would have to submit evidence to prove his case rather than benefit from rebuttable presumptions available for registrants on the Principal Register.

Intent to use is not a basis for an application for registration on the Supplemental Register and thus, the mark must be in actual use in commerce to register.

Supplemental Registration can not be registered with U.S. Customs in order to prevent the importation of counterfeit goods bearing a federally registered trademark.

The certificate of registration for a mark registered on the Supplemental Register is not prima facie evidence of the validity of the registration.

Filing of an application on the Supplemental Register does not constitute constructive use of the mark. It does not confer a nationwide right of priority against third parties.

Marks registered on the Supplemental register do not achieve any of the rights of incontestability.

The certificate of registration for a mark registered on the Supplemental Register is not prima facie evidence of the registrant's ownership of the mark or the registrant's exclusive right to use the mark in commerce on the goods or services specified in the registration.

Potential Procedural Advantages

It is not a bar to the registration of the mark on the Supplemental Register that a mark is merely descriptive, deceptively misdescriptive or primarily merely a surname.

Five years on the Supplemental Register will allow a mark to move to the Principal Register if all other requirements are satisfied. A mark which has acquired distinctiveness is registrable on the Principal Register before five years.

Marks on the Supplemental Register cannot be the subject of interference, opposition or concurrent use proceedings.

An application based solely on foreign registration may be registered on the Supplemental Register without alleging lawful use in commerce anywhere in the world.

Marks accepted for registration on the Supplemental Register are not published for opposition and are not subject to opposition challenges.

Cancellation proceedings for marks registered on the supplemental register proceed without certain statutory limitations.

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